

# Israel: Background and U.S. Relations in Brief

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January 6, 2017

Congressional Research Service

7-....

[www.crs.gov](http://www.crs.gov)

R44245

## **Contents**

U.S.-Israel Relations in a Time of Transition .....	1
Settlements and Diplomatic Initiatives.....	2
Settlements Overview .....	2
UNSCR 2334 and Past U.N. Security Council Activity.....	4
The Kerry Speech and Principles .....	5
Statements and Reactions.....	6
Possible Implications .....	7
Presidential Transition and U.S. Policy Options .....	9
U.S. Embassy Move to Jerusalem? .....	9
Background .....	9
Prospective Trump Administration Action and Potential Reaction.....	10

## **Figures**

Figure 1. Israel: Map and Basic Facts .....	2
Figure 2. Selected Key Sites in Jerusalem.....	11

## **Contacts**

Author Contact Information .....	12
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## U.S.-Israel Relations in a Time of Transition

For decades, strong bilateral relations have fueled and reinforced significant U.S.-Israel cooperation in many areas, including regional security. Nonetheless, at various points throughout the relationship, U.S. and Israeli policies have diverged on some important issues. Significant differences regarding regional issues—notably Iran and the Palestinians—have arisen or intensified since 2009, during the tenures of President Barack Obama and Israeli Prime Minister Binyamin Netanyahu.<sup>1</sup>

Since the 2016 U.S. election, a number of developments involving President-elect Donald Trump, the Obama Administration, Israeli leaders, and various other actors (including Members of Congress) have arisen. These developments have already affected U.S. policy in relation to Israel or are likely to affect it following Trump's inauguration; they include the following.

- Several controversies regarding Israeli settlements in the West Bank and East Jerusalem, including the U.N. Security Council's adoption of Resolution 2334 (UNSCR 2334) on December 23, 2016, by a vote of 14 in favor, zero against, and one abstention by the United States.
- Principles advanced as a possible basis for future Israeli-Palestinian negotiations by Secretary of State John Kerry on December 28, 2016, and other statements and actions related to issues of Israeli-Palestinian dispute as the U.S. presidential transition approaches.
- The possibility that the incoming Administration could move the U.S. embassy from Tel Aviv to Jerusalem.
- Public efforts by Netanyahu and other Israeli leaders to influence the incoming Administration's stance on the 2015 Iran nuclear deal (the Joint Comprehensive Plan of Action, or JCPOA).

Also, in early January 2017, a legal probe of Prime Minister Netanyahu turned into a criminal investigation—in connection with possibly unlawful receipt of gifts—that some observers speculate could threaten his term of office.<sup>2</sup> Netanyahu has stated that the allegations of misconduct constitute “persecution” and insisted that they would come to nothing.<sup>3</sup>

For background information and analysis, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by (name redacted); CRS Report RL33222, *U.S. Foreign Aid to Israel*, by (name redacted); and CRS Report R44281, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, coordinated by (name redacted).

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<sup>1</sup> See, e.g., Jeffrey Goldberg, “The Obama Doctrine,” *The Atlantic*, April 2016; Jason M. Breslow, “Dennis Ross: Obama, Netanyahu Have a ‘Backdrop of Distrust,’” PBS Frontline, January 6, 2016; Sarah Moughty, “Michael Oren: Inside Obama-Netanyahu’s Relationship,” PBS Frontline, January 6, 2016.

<sup>2</sup> Amir Oren, “Only a Surprise Can Save Netanyahu from an Indictment,” *Ha’aretz*, January 3, 2017.

<sup>3</sup> Rory Jones, “Netanyahu Rejects Allegations of Graft,” *Wall Street Journal*, January 4, 2017.

**Figure I. Israel: Map and Basic Facts**

**Sources:** Graphic created by CRS. Map boundaries and information generated by (name redacted) using Department of State Boundaries (2011); Esri (2013); the National Geospatial-Intelligence Agency GeoNames Database (2015); DeLorme (2014). Fact information from CIA, *The World Factbook*; Economist Intelligence Unit; IMF World Outlook Database; Israel Central Bureau of Statistics. All numbers are estimates and as of 2016 unless specified.

**Notes:** United Nations Disengagement Observer Force (UNDOF) withdrew to Israeli-controlled territory in the Golan Heights in September 2014. The West Bank is Israeli-administered with current status subject to the 1995 Israeli-Palestinian Interim Agreement; permanent status to be determined through further negotiation. The status of the Gaza Strip is a final status issue to be resolved through negotiations. Israel proclaimed Jerusalem as its capital in 1950, but the United States, like nearly all other countries, retains its embassy in Tel Aviv-Yafo. Boundary representation is not necessarily authoritative.

## Settlements and Diplomatic Initiatives

### Settlements Overview

Since 1967, hundreds of thousands of Israeli civilians have settled in territory that the Israel has occupied militarily since that year's Arab-Israeli war. Approximately 371,000 Israelis live in West

Bank settlements, with nearly 212,000 more in East Jerusalem.<sup>4</sup> These residential communities are located in areas that Palestinians claim as part of their envisioned future state. Israelis who defend the settlements' legitimacy generally cite some combination of legal, historical, strategic, nationalistic, or religious justifications, although Israeli opinion varies about different types of settlements in different locations.<sup>5</sup>

Since Israeli settlement construction began, it has attracted U.S. and international criticism. The international community generally considers Israeli construction on territory occupied in the 1967 war to be illegal.<sup>6</sup> For background on the issue and U.S. policy, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by (name redacted)

In July 2016, the United States and other members of the international Quartet<sup>7</sup> (European Union, Russia, the U.N. Secretary-General) released a report saying, among other things, that the “continuing policy of settlement construction and expansion, designation of land for exclusive Israeli use, and denial of Palestinian development is steadily eroding the viability of the two-state solution.”<sup>8</sup> In September 2016, Quartet representatives released a statement reiterating their opposition to settlement construction and expansion, and further specifying concerns with regard to “the retroactive ‘legalization’ of existing units.”<sup>9</sup>

Some Israeli leaders have openly anticipated that after President-elect Trump's inauguration, the U.S. stance would be less critical of official Israeli actions and statements on settlements and other Palestinian-related issues. In this context, Israeli officials have continued announcing settlement plans or construction-related activities, and Prime Minister Netanyahu has supported the advancement of legislation in the Knesset (known as the “Regulation Law”) that would expropriate private Palestinian property in order to provide a basis for the legality (under Israeli law) of some settlement outposts. Additionally, after Israel's Supreme Court ruled that an Israeli outpost in the West Bank known as Amona had to be evacuated and demolished because it was built on land privately owned by Palestinians, the Netanyahu government reached a deal in December 2016 to resettle its residents on West Bank land that may also be subject to private Palestinian land ownership claims.<sup>10</sup>

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<sup>4</sup> CIA World Factbook estimates as of 2014.

<sup>5</sup> For more information on the history of the settlements and their impact on Israeli society, see Naval Postgraduate School, *Religious Zionism and Israeli Settlement Policy*, 2014; Charles Selengut, *Our Promised Land: Faith and Militant Zionism in Israeli Settlements*, Rowman & Littlefield, 2015; Gershon Gorenberg, *The Accidental Empire: Israel and the Birth of the Settlements, 1967-1977*, New York: Times Books, 2006.

<sup>6</sup> The most-cited international law pertaining to Israeli settlements is the Fourth Geneva Convention, Part III, Section III, Article 49 *Relative to the Protection of Civilian Persons in Time of War*, August 12, 1949, which states in its last sentence, “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” Israel counters that the West Bank does not fall under the international law definition of “occupied territory,” but is rather “disputed territory” because the previous occupying power (Jordan) did not have an internationally recognized claim to it. Israel claims that, given the demise of the Ottoman Empire at the end of World War I and the end of the British Mandate in 1948, Israel claims that no international actor has a superior legal claim.

<sup>7</sup> The Quartet formed in 2002 as an effort by the members to pool their efforts in mitigating conflict and promoting the peace process.

<sup>8</sup> The report, dated July 1, 2016, is available at <http://www.state.gov/p/nea/rls/rpt/259262.htm>. It also lamented terrorist attacks against civilians and Palestinian incitement to violence.

<sup>9</sup> The statement is available at <http://www.state.gov/r/pa/prs/ps/2016/09/262344.htm>.

<sup>10</sup> Isabel Kershner, “Israel Reaches Deal to Move an Illegal West Bank Settlement,” *New York Times*, December 19, 2016.

## UNSCR 2334 and Past U.N. Security Council Activity

On December 23, 2016, the U.N. Security Council adopted Resolution 2334 by a vote of 14 in favor, zero against, and one abstention by the United States. The resolution, among other things:

- Reaffirms that settlements established by Israel in “Palestinian territory occupied since 1967, including East Jerusalem,” constitute “a flagrant violation under international law” and a “major obstacle” to a two-state solution and a “just, lasting and comprehensive peace.”
- Reiterates the Council’s demand that Israel “immediately and completely cease all settlement activities.”
- Underlines that the Council will not recognize changes to 1949-1967 armistice lines demarcating the West Bank other than those agreed by the parties through negotiations.
- Calls upon all states to “distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967.”
- Calls for immediate steps to prevent acts of violence against civilians and to clearly condemn all acts of terrorism.
- Calls upon both parties to act on the basis of international law and their previous agreements and obligations, and to “refrain from provocative actions, incitement and inflammatory rhetoric.”
- Urges the intensification and acceleration of international and regional diplomatic efforts and support aimed at achieving a “comprehensive, just and lasting peace in the Middle East.”

In 1980, UNSCR 465, which was adopted unanimously, had determined that Israel’s practices of settling parts of its population in territories occupied since 1967 constituted a “flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.” Some subsequent UNSCRs featured language appearing to criticize settlements.<sup>11</sup>

In February 2011, the United States vetoed a draft UNSCR—approved by all 14 other members of the Security Council—that would have characterized Israeli settlements in the West Bank and East Jerusalem as illegal, and demanded cessation of settlement activities. The draft did not contain language similar to UNSCR 2334 condemning terrorism and calling for actors to prevent violence and refrain from incitement.<sup>12</sup> Susan Rice, then-U.S. Permanent Representative to the United Nations, clarified that despite its veto, the Obama Administration still opposed settlement construction as illegitimate and at cross-purposes with peace efforts.<sup>13</sup>

Also, on December 30, 2014, a Palestinian-backed, U.S.-opposed U.N. Security Council draft resolution regarding some contentious Israeli-Palestinian issues garnered only eight of the required nine votes for adoption.<sup>14</sup>

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<sup>11</sup> See, e.g., <https://peacenow.org/WP/wp-content/uploads/US-Israel-UNSCRs-1967-present.pdf>.

<sup>12</sup> For an analysis, see Michal Hatuel Radoshitzky, “Analysis: Four factors that paved the way for UN vote on settlements,” *jpost.com*, December 27, 2016.

<sup>13</sup> “United States vetoes Security Council resolution on Israeli settlements,” UN News Centre, February 18, 2011.

<sup>14</sup> U.N. Press Release: “Resolution in Security Council to Impose 12-Month Deadline on Negotiated Solution to Israeli-Palestinian Conflict Unable to Secure Nine Votes Needed for Adoption,” December 30, 2014. Among other issues, the draft resolution would have affirmed “the urgent need” to attain a negotiated two-state solution within 12 months, and (continued...)

Prior to the February 2011 U.S. veto, other Administrations had vetoed several draft UNSCRs relating to Israel, including 1983 and 1997 draft UNSCRs relating specifically to settlements.<sup>15</sup>

Various observers and policymakers have debated the impact of UNSCR 2334. One media report characterized UNSCR 2334 as “largely symbolic” because it did not include specific references to sanctions or other punitive measures against Israel.<sup>16</sup> On January 5, 2017, the House passed H.Res. 11, which objected to UNSCR 2334 and the Obama Administration’s abstention, by a 340-80 vote (with four voting “present”). A similar resolution, S.Res. 6, has been introduced in the Senate, and was co-sponsored by 47 Senators as of January 6. On September 20, 2016, 88 Senators had signed a letter to Obama urging him to “make it clear that you will veto any one-sided UNSC resolution that may be offered in the coming months ... whether focused on settlements or other final-status issues.”<sup>17</sup> In April 2016, 394 Representatives had signed a similar letter to President Obama.<sup>18</sup>

## The Kerry Speech and Principles

Following the adoption of UNSCR 2334, Secretary Kerry gave a speech to explain the U.S. abstention and to set forth six principles as a possible basis for future Israeli-Palestinian negotiations. He stated:

We’ve made countless public and private exhortations to the Israelis to stop the march of settlements.... Yet the settlement activity just increased, including advancing the unprecedented legislation to legalize settler outposts that the prime minister himself reportedly warned could expose Israel to action at the Security Council and even international prosecution before deciding to support it.

In the end, we could not in good conscience protect the most extreme elements of the settler movement as it tries to destroy the two-state solution. We could not in good conscience turn a blind eye to Palestinian actions that fan hatred and violence. It is not in U.S. interest to help anyone on either side create a unitary state. And we may not be able to stop them, but we cannot be expected to defend them. And it is certainly not the role of any country to vote against its own policies.

That is why we decided not to block the UN resolution that makes clear both sides have to take steps to save the two-state solution while there is still time. And we did not take this decision lightly. The Obama Administration has always defended Israel against any effort at the UN and any international fora or biased and one-sided resolutions that seek

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(...continued)

would have “decided” that the solution was to be based on a number of parameters, including “a full and phased withdrawal of the Israeli occupying forces, which will end the occupation that began in 1967 over an agreed transition period in a reasonable timeframe, not to exceed the end of 2017.” See the text of the draft resolution at <http://unispal.un.org/unispal.nsf/5ba47a5c6cef541b802563e000493b8c/a12252711015996d85257dbf00536b1c?OpenDocument>.

<sup>15</sup> Jewish Virtual Library, U.N. Security Council: U.S. Vetoes of Resolutions Critical to Israel.

<sup>16</sup> Josef Federman, “Israel’s Humbled Benjamin Netanyahu Places Hopes in Donald Trump,” Associated Press, December 25, 2016.

<sup>17</sup> The text of the letter is available at <https://www.gillibrand.senate.gov/newsroom/press/release/senators-gillibrand-and-rounds-lead-bipartisan-initiative-urging-president-obama-to-reject-and-if-needed-veto-any-one-sided-resolutions-at-the-united-nations>.

<sup>18</sup> Its text is available at [http://kaygranger.house.gov/sites/granger.house.gov/files/Letter%20to%20President%20Obama%20supporting%20direct%20negotiations%20%E2%80%93signed%20by%20394%20Members%20of%20Congress\\_1.pdf](http://kaygranger.house.gov/sites/granger.house.gov/files/Letter%20to%20President%20Obama%20supporting%20direct%20negotiations%20%E2%80%93signed%20by%20394%20Members%20of%20Congress_1.pdf).



to undermine its legitimacy or security, and that has not changed. It didn't change with this vote.

But remember it's important to note that every United States administration, Republican and Democratic, has opposed settlements as contrary to the prospects for peace, and action at the UN Security Council is far from unprecedented. In fact, previous administrations of both political parties have allowed resolutions that were critical of Israel to pass, including on settlements.<sup>19</sup>

The six principles Kerry stated as a possible basis for future negotiations were:

1. **Borders.** Provide for secure and recognized international borders between Israel and a viable and contiguous Palestine, negotiated based on the 1967 lines with mutually agreed equivalent swaps.
2. **Two states.** Fulfill the vision of the U.N. General Assembly Resolution 181 of two states for two peoples, one Jewish and one Arab, with mutual recognition and full equal rights for all their respective citizens.
3. **Palestinian refugees.** Provide for a just, agreed, fair, and realistic solution to the Palestinian refugee issue, with international assistance, that includes compensation, options and assistance in finding permanent homes, acknowledgment of suffering, and other measures necessary for a comprehensive resolution consistent with two states for two peoples.
4. **Jerusalem.** Provide an agreed resolution for Jerusalem as the internationally recognized capital of the two states, and protect and assure freedom of access to the holy sites consistent with the established status quo.
5. **Security.** Satisfy Israel's security needs and bring a full end, ultimately, to the occupation, while ensuring that Israel can defend itself effectively and that Palestine can provide security for its people in a sovereign and non-militarized state.
6. **End of conflict.** End the conflict and all outstanding claims, enabling normalized relations and enhanced regional security for all as envisaged by the Arab Peace Initiative.<sup>20</sup>

Kerry reportedly intends to participate in a January 2017 international conference in France aimed at encouraging the resumption of negotiations.

## Statements and Reactions

President-elect Trump publicly advocated a U.S. veto of UNSCR 2344 before the vote,<sup>21</sup> and indicated after the vote and the Kerry speech that his approach to Israeli-Palestinian issues would be different.<sup>22</sup> Prime Minister Netanyahu vehemently denounced the resolution and expressed his

<sup>19</sup> State Department transcript of Kerry's remarks, Washington, DC, December 28, 2016.

<sup>20</sup> The Arab Peace Initiative offers a comprehensive Arab peace with Israel if Israel were to withdraw fully from the territories it occupied in 1967, agree to the establishment of a Palestinian state with a capital in East Jerusalem, and provide for the "[a]chievement of a just solution to the Palestinian Refugee problem in accordance with UN General Assembly Resolution 194." The initiative was proposed by Saudi Arabia, adopted by the 22-member Arab League (which includes the PLO), and later accepted by the 56-member Organization of the Islamic Conference (now the Organization of Islamic Cooperation) at its 2005 Mecca summit. The text of the initiative is available at <http://www.bitterlemons.org/docs/summit.html>.

<sup>21</sup> Peter Baker, "President-Elect Moves to Shape Mideast Policy," *New York Times*, December 23, 2016.

<sup>22</sup> "Trump after Kerry speech: Israel treated 'very, very unfairly,'" *Jewish Telegraphic Agency*, December 30, 2016.



enthusiasm to work with the Trump Administration. Netanyahu also took diplomatic measures to show displeasure with the various countries involved in the vote.

On December 27, a Netanyahu spokesman said that Israel had “ironclad information” showing that the Obama Administration “helped craft this resolution and pushed hard for its eventual passage.”<sup>23</sup> In a press briefing the same day, the State Department spokesperson said that the United States did not draft the resolution or put it forward, but that:

...as the draft [of] the text was circulated, we said to those on the Security Council that – what further changes were needed to make the text more balanced. And in fact, we ended up abstaining because we didn’t feel it was balanced enough in the sense of it didn’t hit hard enough on the incitement-to-violence side of the coin.

According to one media account, the Obama Administration “acknowledged that it considered the possibility of abstaining on a settlements resolution over the past year as various drafts were circulated by different countries.”<sup>24</sup>

Reactions to UNSCR 2344 and Kerry’s speech have varied. Many Israeli leaders—particularly from parties within Netanyahu’s governing coalition—have criticized the U.S. and international actions. Some Israeli leaders—particularly from the opposition—have blamed Netanyahu for policies that they claim fueled the U.S. and international initiatives.<sup>25</sup> Many European leaders have welcomed the Obama Administration’s actions, while some Arab observers have questioned what impact such actions can have in light of the impending presidential transition.<sup>26</sup>

In line with the earlier-mentioned letters to President Obama signed by large majorities in the Senate and House (in the 114<sup>th</sup> Congress), several Members of Congress have voiced displeasure with the U.S. abstention on UNSCR 2334 and with the Kerry speech. For example, Senate Minority Leader Charles Schumer was quoted as stating, “While he may not have intended it, I fear Secretary Kerry, in his speech and action at the UN, has emboldened extremists on both sides.”<sup>27</sup> Observers debate the extent to which some Members of Congress may quietly approve of Obama Administration criticism of settlements or some other Israeli policies.<sup>28</sup>

## Possible Implications

The consequences of recent U.S. and international actions are unclear. Will they substantively increase international leverage against Israel in its settlement activities or more broadly? Will they lead to greater determination among right-of-center Israeli leaders to disregard or actively challenge international initiatives or pressure via unilateral Israeli actions? Beyond the initiatives’ specific scope, will they have wider ripple effects on Israeli-Palestinian and regional dynamics?

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<sup>23</sup> Josef Federman, “Israel: ‘Ironclad information’ White House behind UN rebuke,” *Associated Press*, December 27, 2016.

<sup>24</sup> *Ibid.*

<sup>25</sup> Mazal Mualem, “UN anti-settlement resolution wake-up call for Israelis,” *Al-Monitor Israel Pulse*, December 28, 2016; “Israeli officials: US abstention was Obama’s ‘last sting,’ showed his ‘true face,’” *Times of Israel*, December 24, 2016.

<sup>26</sup> Jonathan Martin, “Kerry’s Blunt Words for Israel Denounced by Lawmakers in Both Parties,” *New York Times*, December 28, 2016.

<sup>27</sup> Mark Hensch, “Schumer: Kerry ‘emboldened extremists on both sides,’” *The Hill*, December 28, 2016.

<sup>28</sup> Betsy Woodruff, “Will John Kerry’s Israel Speech Tear the Democrats Apart?” *Daily Beast*, December 29, 2016.

### Past “Lame Duck” U.S. Diplomatic Initiatives on Israeli-Palestinian Issues

**Reagan Administration.** In December 1988, during the first Palestinian intifada (or uprising, which lasted roughly from 1987 to 1991), the United States authorized the start of substantive U.S. dialogue with the Palestine Liberation Organization (PLO), as Vice President/President-elect George H.W. Bush prepared to take office. After subsequent diplomatic efforts by the Bush and Clinton Administrations, Israel and the PLO began the Oslo peace process with the Declaration of Principles in September 1993.

**Clinton Administration.** After unsuccessful U.S.-mediated efforts at an Israeli-Palestinian peace agreement and the outbreak of the second intifada in September 2000 (which would last roughly until 2005), President Clinton proposed the “Clinton Parameters” in a December 23, 2000, speech.<sup>29</sup> The parameters were intended to bridge gaps between the two sides’ positions, but the sides did not reach agreement before Clinton left office. The parameters continue to influence negotiating proposals and debate over possible outcomes.

**George W. Bush Administration.** Although substantive negotiations between Israel and the Palestinians ended before the November 2008 U.S. presidential elections, the “Annapolis process” launched by President Bush in November 2007, as an attempt to reach a peace agreement by the end of 2008, nominally continued until the outbreak of a conflict between Israel and Hamas in Gaza in late December 2008. Bush Administration officials were active in efforts throughout the conflict to support Israel while also encouraging the cease-fire that went into effect on January 18, 2009, days before President Obama’s inauguration.

Following the adoption of UNSCR 2334, Palestinian leaders indicated that they will campaign “to require that other countries not just label products made in the settlements, but ban them.”<sup>30</sup>

Palestinian Authority (PA) Foreign Minister Riad Malki also talked about using the resolution to facilitate possible boycotts, lawsuits, and efforts to press the International Criminal Court (ICC) to prosecute Israeli officials.<sup>31</sup>

On the Israeli side, Netanyahu has outwardly cultivated the image that Trump’s accession will strengthen Netanyahu’s hand internationally, and that other countries are unlikely to threaten Israel with harmful isolation due to Israel’s value as a trade, defense, and intelligence partner.<sup>32</sup> Observers question whether Netanyahu will come under increasing pressure to choose between his previous support-in-principle for a two-state solution and more right-leaning policies being pushed domestically.<sup>33</sup> Prominent Israeli pro-settler leader and Education Minister Naftali Bennett has stepped up his calls for Israel to abandon the two-state solution and either annex or effectively annex large swaths of the West Bank that are now populated by Israeli settlers.<sup>34</sup> Bennett stated in early January 2017 that, after Trump’s inauguration, Bennett would sponsor a bill to annex the Ma’ale Adumim settlement, which is located slightly eastward of Israel’s municipal boundary for Jerusalem.<sup>35</sup>

Various aspects of the Israeli-Palestinian conflict appear unchanged by recent diplomatic developments. Israel maintains overarching control of the security environment in Israel and the West Bank. Palestinians remain divided between a PA administration with limited self-rule in

<sup>29</sup> <http://cmep.org/content/clinton-parameters-december-23-2000>.

<sup>30</sup> Peter Baker, “A Defiant Israel Vows to Expand Its Settlements,” *New York Times*, December 27, 2016.

<sup>31</sup> Ibid. For more information on ICC action regarding the “situation in Palestine,” see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by (name redacted)

<sup>32</sup> Raphael Ahren, “For the PM, there is no damage Obama could do that Trump could not undo,” *Times of Israel*, December 27, 2016.

<sup>33</sup> Isabel Kershner, “Israel Wonders How Long Netanyahu Can Back Settlements and Two-State Solution,” *New York Times*, December 25, 2016.

<sup>34</sup> Mualem, op. cit.

<sup>35</sup> Rory Jones, “Israel Lawmakers Plan to Push Annexation Bill,” *Wall Street Journal*, January 3, 2017.

specified West Bank urban areas, led by the Fatah movement and President Mahmoud Abbas, and a de facto Hamas administration in the Gaza Strip. Both the PA and Hamas face major questions regarding future leadership and succession. There has been little or no change in the gaps between Israeli and Palestinian positions on key issues of dispute since the last round of direct talks broke down in April 2014. Since 2011, Arab states that have traditionally championed the Palestinian cause have been more preoccupied with their own internal concerns, and many have built or strengthened informal ties with Israel based on common concerns regarding Iran and its regional influence.

## **Presidential Transition and U.S. Policy Options**

As Trump prepares to take office, reports indicate that his close advisors on Israeli issues include his chief strategist Stephen Bannon, son-in-law Jared Kushner, and lawyer David Friedman—his proposed nominee to be U.S. ambassador to Israel.<sup>36</sup> Friedman’s nomination—subject to Senate approval—has attracted attention because of his past statements and financial efforts in support of Israeli settlements in the West Bank,<sup>37</sup> and his sharp criticism of the Obama Administration, some Members of Congress, and some American Jews.<sup>38</sup>

Speculation surrounds what actions the President-elect and Congress might take on Israeli-Palestinian issues in the coming months. Friedman and a number of other aides have stated that the President-elect is serious about implementing his campaign pledge to move the U.S. embassy in Israel from Tel Aviv to Jerusalem (discussed below). Trump has stated aspirations to help broker a final-status Israeli-Palestinian agreement. Other possible presidential or legislative initiatives could address:

- U.S. aid to Israel and the Palestinians.
- Standing U.S. policy on a two-state solution and other issues of dispute.
- U.S. contributions to and participation at the United Nations and other international bodies.
- U.S. approaches to other regional and international actors that have roles on Israeli-Palestinian issues.

## **U.S. Embassy Move to Jerusalem?**

### **Background**

Successive U.S. Administrations of both political parties since 1948 have maintained that the fate of Jerusalem is to be decided by negotiations and have discouraged the parties from taking actions that could prejudice the final outcome of those negotiations. The Palestinians envisage East Jerusalem as the capital of their future state. However, the House of Representatives passed H.Con.Res. 60 in June 1997, and the Senate passed S.Con.Res. 21 in May 1997. Both resolutions

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<sup>36</sup> Karen DeYoung, “For Obama, abstention at U.N. was a no-risk move,” *Washington Post*, December 29, 2016; Matthew Rosenberg, “Trump Chooses Hard-Liner as Ambassador to Israel,” *New York Times*, December 15, 2016.

<sup>37</sup> Judy Maltz, “David Friedman Raised Millions for Radical West Bank Jewish Settlers,” *Ha’aretz*, December 16, 2016.

<sup>38</sup> See, e.g., Rosenberg, op. cit.

called on the Clinton Administration to affirm that Jerusalem must remain the undivided capital of Israel.

A related issue is the possible relocation of the U.S. embassy from Tel Aviv to Jerusalem. Proponents argue that Israel is the only country where a U.S. embassy is not in the capital identified by the host country, that Israel's claim to West Jerusalem—where an embassy may be located—is unquestioned, and/or that Palestinians must be disabused of their hope for a capital in Jerusalem. Opponents say such a move would undermine prospects for Israeli-Palestinian peace and U.S. credibility with Palestinians and in the Muslim world, and could prejudge the final status of the city. The Jerusalem Embassy Act of 1995 (P.L. 104-45) provided for the embassy's relocation by May 31, 1999, but granted the President authority, in the national security interest, to suspend limitations on State Department expenditures that would be imposed if the embassy did not open. Presidents Clinton, Bush, and Obama have consistently suspended these spending limitations, and the embassy has remained in Tel Aviv. President Obama issued the most recent six-month suspension of limitations on December 1, 2016.<sup>39</sup>

Over successive Congresses, various Members have periodically introduced substantially similar versions of a Jerusalem Embassy and Recognition Act or thematically related bills or resolutions. Such bills and resolutions seek the embassy's relocation and would remove or advocate the removal of the President's authority to suspend the State Department expenditure limitations cited above. New versions (S. 11, H.R. 257, and H.R. 265) were introduced in January 2017.

## **Prospective Trump Administration Action and Potential Reaction**

As a candidate, Donald Trump—like Bill Clinton and George W. Bush when they were presidential candidates—pledged to move the embassy to Jerusalem. As mentioned above, since the election a number of Trump's top aides—including David Friedman, his proposed nominee to be U.S. ambassador to Israel—have stated that the President-elect intends to follow through on the campaign pledge, but one aide stated in November 2016 that he would “create consensus at home” before making the change.<sup>40</sup>

Media sources and other observers have speculated about how the incoming Administration might logistically handle an embassy move. They have discussed the use of sites owned or leased by the U.S. government as possible venues for an embassy in Jerusalem.<sup>41</sup> They have also raised the possibility of Trump designating the existing U.S. Consulate General in Jerusalem (which currently only deals with Palestinians in the West Bank, East Jerusalem, and Gaza) as an embassy or an embassy annex.<sup>42</sup>

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<sup>39</sup> <https://www.whitehouse.gov/the-press-office/2016/12/01/presidential-determination-suspension-limitations-under-jerusalem>.

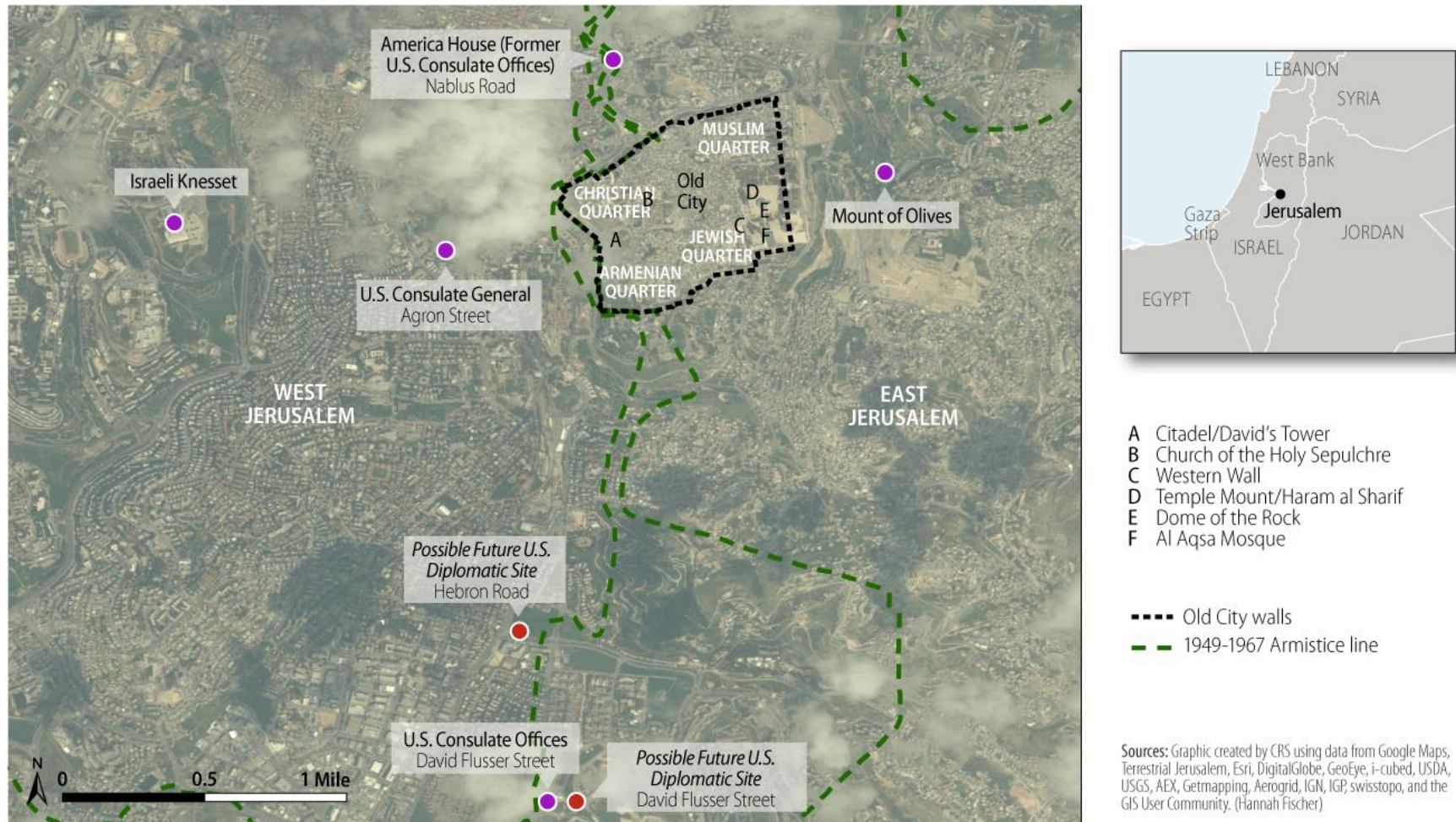
<sup>40</sup> Daniel Estrin, “Trump Favors Moving U.S. Embassy to Jerusalem, Despite Backlash Fears,” NPR, November 15, 2016.

<sup>41</sup> Raphael Ahren, “Jerusalem of Trump: Where the president-elect might put the US embassy,” *Times of Israel*, December 13, 2016; Tamar Pileggi, “Trump's team already exploring logistics of moving embassy to Jerusalem — report,” *Times of Israel*, December 12, 2016.

<sup>42</sup> Efraim Cohen, “How Trump Could Make Quick Move to Jerusalem for U.S. Israel Embassy,” *New York Sun*, December 13, 2016.



**Figure 2. Selected Key Sites in Jerusalem**



**Source:** Those stated in the graphic and *Times of Israel*.

**Notes:** All locations and lines are approximate. Unofficial media reports, as well as official U.S. government information provided to CRS in 2013 regarding U.S. government ownership or leasing of property in Jerusalem, contribute to the designation of possible future U.S. diplomatic sites.

Some observers claim that moving the U.S. embassy could lead to a number of negative consequences. One U.S.-based analyst has been quoted as saying, “I have heard from Israelis that any sudden moves on the U.S. position on Jerusalem would potentially precipitate a third intifada, disrupt the strategic ties between Jordan and Israel and cause a break in the quiet diplomacy with Saudi Arabia.”<sup>43</sup> The PLO’s chief negotiator has threatened to reverse the recognition it has accorded Israel to date.<sup>44</sup> An opponent of the move has argued that it would be prejudicial “in direct violation” of the 1993 Declaration of Principles (also known as the Oslo Accord).<sup>45</sup> Some observers appear to base their stated concerns about an embassy move not on an imminent expectation of security problems or dramatic diplomatic backlash, but on the possibility that a move could undermine promising opportunities for Israel to work with Arab states.<sup>46</sup>

However, proponents of a move downplay such concerns. One proponent has asserted that widespread de facto acceptance of West Jerusalem as part of Israel means that relocating the embassy to Jerusalem would not prejudice the U.S. stance on the city’s ultimate status, including that of the Old City and the holy sites.<sup>47</sup> Another proponent has stated that an embassy move could change the atmosphere in such a way that a resumption of peace talks becomes more likely.<sup>48</sup> A former senior U.S. official on Israeli-Palestinian issues wrote in January 2017 that coupling an embassy move with a larger diplomatic initiative regarding Jerusalem’s status could possibly aid the peace process, under certain circumstances.<sup>49</sup>

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<sup>43</sup> Jonathan Schanzer, quoted in Eli Lake, “Israel Needs Its Arab Friends More Than U.S. Embassy Move,” Bloomberg, December 21, 2016.

<sup>44</sup> Lake, op. cit.

<sup>45</sup> Danny Seidemann, “Moving the U.S. Embassy in Israel to Jerusalem: A Hard Look at the Arguments and Implications,” *Insiders’ Jerusalem*, January 3, 2017. See Article V, Section 3 of the Oslo Accord, which states that permanent status negotiations “shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors, and other issues of common interest.” <http://www.mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/Declaration%20of%20Principles.aspx> Israel and the PLO were the two parties to the Oslo Accord. The United States and Russia both witnessed the document.

<sup>46</sup> Ibid.

<sup>47</sup> Amiad Cohen, “Please, America, Move Your Embassy to Jerusalem,” *nytimes.com*, December 27, 2016.

<sup>48</sup> “Moving the US embassy to Jerusalem,” *Economist*, December 24, 2016.

<sup>49</sup> Martin Indyk, “The Jerusalem-first option,” *New York Times*, January 6, 2017.

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